

REMARKS

The Official Action mailed August 4, 2009, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on October 17, 2006; March 3, 2008; August 28, 2008; October 8, 2009; and October 23, 2009.

FOURTH REQUEST: The Applicant notes the *partial* consideration of the Information Disclosure Statement filed on March 29, 2006. Specifically, it appears that the Examiner inadvertently overlooked the citation of the "International Search Report of November 22, 2004 for PCT/JP2004/014762." A copy of the partially considered Form PTO-1449 is available in the Image File Wrapper under the heading, "List of References cited by applicant and considered by examiner" and has a mail room date of "06-23-2008." Despite three earlier requests, the Examiner still has not addressed the matter. The Applicant respectfully requests that the Examiner provide an initialed copy of the Form PTO-1449 evidencing consideration of the above-referenced "International Search Report." As a courtesy to the Examiner, a copy of the partially considered Form PTO-1449 is submitted herewith.

The Applicant notes the *partial* consideration of the Information Disclosure Statement filed on September 16, 2009. Specifically, it appears that the Examiner inadvertently overlooked the citation of the "Office Action (Application No. 2004-039340) dated July 14, 2009." A copy of the partially considered Form PTO-1449 is available in the Image File Wrapper under the heading, "List of References cited by applicant and considered by examiner" and has a mail room date of "01-21-2010." The Applicant respectfully requests that the Examiner provide an initialed copy of the Form PTO-1449 evidencing consideration of the above-referenced "Office Action." As a courtesy to the Examiner, a copy of the partially considered Form PTO-1449 is submitted herewith.

Claims 1-4, 7, 9-12 and 21 are pending in the present application, of which claims 1 and 21 are independent. (Although the Office Action Summary omits claim 21 from the list of pending and rejected claims, the body of the Official Action appears to address claim 21. Appropriate correction is requested in a future communication.) Claims 1 and 21 have been amended to better recite the features of the present invention. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

The Official Action rejects claims 1 and 21 under 35 U.S.C. § 112, second paragraph, asserting that the claims are “indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention” (page 2, Paper No. 20100117). In response, claims 1 and 21 have been amended as noted in detail above. The Applicant respectfully submits that amended independent claims 1 and 21 particularly point out and distinctly claim the subject matter which applicant regards as the invention and are definite. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112 are in order and respectfully requested.

The Official Action rejects claims 1-4, 10-12 and 21 as obvious based on the combination of EP 1 106 968 to Mannesmann and U.S. Patent No. 6,119,095 to Morita. The Official Action rejects claims 7 and 9 as obvious based on the combination of Mannesmann, Morita, U.S. Publication No. 2001/0029429 to Katayama and U.S. Patent No. 6,049,754 to Beaton. The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP §§ 2142-2144.04, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The prior art, either alone or in combination, does not teach or suggest all the features of the independent claims, as amended. Specifically, independent claim 1 has been amended to recite the following features: the designating unit operates to select a proposed route point from a proposed route point database, including genre data indicating a genre of the facility in the proposed route point and business hour data of the facility in the proposed route point, and the creating unit operates to output business hour data as time frame comparison data corresponding to a genre of the route point and comparing this time frame comparison data with guide time data associated with the same genre of a route point condition table for genre, including genre name data and associated guide time data, wherein, when a time frame not included in the business hour data of the route point is included in a time frame of the guide time data, a guide point condition update unit deletes the guide time by the excess time frame not included in the business hour data and updates the guide time data of the route point condition for genre table to be included in the business hour data of the route point. Independent claim 21 has been similarly amended. The Applicant respectfully submits that Mannesmann, Morita, Katayama and Beaton, either alone or in combination, do not teach or suggest the above-referenced features of the present invention.

Since Mannesmann, Morita, Katayama and Beaton do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280.

Respectfully submitted,



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